

NORTH CAROLINA
WAKE COUNTY

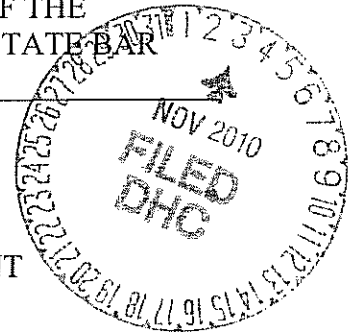
BEFORE THE
DISCIPLINARY HEARING
COMMISSION OF THE
NORTH CAROLINA STATE BAR
10 DHC 10

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

JACK E. McLAMB III , Attorney,
Defendant.

COMPLAINT



Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Jack E. McLamb III ("McLamb"), was admitted to the North Carolina State Bar on August 24, 1996 and is, and was at all times referred to herein, an attorney at law subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of North Carolina.

3. During all or part of the relevant periods referred to herein, McLamb was engaged in the practice of law in Johnston County, North Carolina.

4. Defendant represented Heather Elise Collins in Johnston County court file number 07 CR 5059 on charges of speeding.

5. Defendant represented Timothy Ray Little in Johnston County court file number 07 CR 705250 on charges of speeding and expired registration.

6. Defendant represented Anthony Blake Holmes in Johnston County court file number 07 CR 5323 on charges of driving while license revoked and a seat belt violation.

7. In August or September 2007, Defendant learned that Assistant District Attorney Cynthia Jaeger had submitted her resignation from the Johnston County District Attorney's Office and that her last day as a Johnston County assistant district attorney would be in mid-September, 2007.

8. Defendant asked Jaeger to consider dismissing the charges against Collins, Little and Holmes.

9. Jaeger told Defendant to speak with her in court or to stop by her office to discuss the proposed dismissals.

10. Defendant learned that lawyer Jonathon Hatch (who has subsequently been disbarred) was going to see Jaeger to ask her to dismiss the cases of some of his clients. Defendant accepted Hatch's offer to deliver to Jaeger, on Defendant's behalf, proposed dismissals for Collins, Little and Holmes with the instruction that if Jaeger had any questions regarding the proposed dismissals to let defendant know.

11. Defendant filled out three proposed dismissal forms, one for each of Collins, Little and Holmes, and gave them to Hatch. Defendant understood that Hatch would take the proposed dismissal forms to Jaeger.

12. The proposed dismissal forms Defendant gave to Hatch were complete, including the caption, file number and charges at issue in each case and the reason for the dismissal, but they had not been signed by a representative of the District Attorney's Office and were not dated.

13. Hatch delivered the proposed dismissal forms to Jaeger.

14. Jaeger told Hatch that she would sign the dismissal forms so long as they were not filed in the Clerk's office until after Jaeger no longer was employed by the Johnston County District Attorney's Office.

15. Jaeger signed but did not date the dismissal forms for Collins, Little and Holmes and returned them to Hatch.

16. Hatch returned the signed dismissal forms to Defendant.

17. When she signed the dismissal forms for Collins, Little and Holmes, Jaeger was a Johnston County assistant district attorney.

18. Defendant delivered the dismissal form for Collins's case to the Clerk of Court for filing on or about December 14, 2007.

19. Defendant delivered the dismissal form for Little's case to the Clerk of Court for filing on or about December 11, 2007.

20. Defendant delivered the dismissal form for Holmes's case to the Clerk of Superior Court on or about February 5, 2008.

21. When he delivered the dismissal forms to the Clerk for filing, Defendant did not remember the date on which Jaeger had signed the dismissal forms but knew she had signed them while she was still a Johnston County assistant district attorney.

22. When he delivered the dismissal forms to the Clerk for filing, Defendant filled in the portion of the forms calling for the date on which the representative of the District Attorney's Office signed with the date September 10, 2007. September 10, 2007 was his best estimate of the date upon which Jaeger had signed the dismissals.

23. Defendant did not deliver the dismissal forms to the Clerk for filing immediately upon receiving them because he wanted to wait until his clients had paid him his attorney fee for their cases.

24. When he delivered the dismissal forms to the Clerk for filing, Defendant did not know that, as a condition of signing the dismissal forms, Jaeger required that the forms not be filed in the Clerk's office until after Jaeger no longer was employed by the Johnston County District Attorney's Office.

25. Jaeger signed many dismissals for now disbarred lawyers Chadwick Lee and Jonathon Hatch. When these dismissals came to the attention of the elected District Attorney in Johnson County, the elected District Attorney asked the State Bureau of Investigation to investigate the circumstances surrounding these dismissals.

26. The SBI did investigate the circumstances surrounding these dismissals.

27. Eventually 5 lawyers were charged with criminal offenses relating to the dismissals. Three of those lawyers, Jaeger, Hatch and Lee, have pled guilty to felony offenses, have been sentenced to substantial periods of incarceration and have been disbarred.

28. On January 25, 2010, Defendant entered a plea of guilty in Johnston County Superior Court file no. 09 CR 01789, *State of North Carolina v. Jack E. McLamb III*, to 3 counts of misdemeanor obstruction of justice relating to his filing the dismissal forms in the cases of his clients Collins, Little and Holmes.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

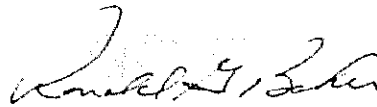
- a. By pleading guilty to and being convicted of 3 counts of misdemeanor obstruction of justice, Defendant was convicted of criminal offenses showing professional unfitness, in violation of N.C.G.S. 84-28(b)(1).

- b. By filing in the Johnston County Clerk of Court's Office dismissal forms dismissing his clients' cases when he knew that the assistant district attorney who had signed those forms was, at the time they were filed, no longer employed in the Johnston County District Attorney's Office, Defendant committed criminal acts which reflect adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Rules of Professional Conduct.
- c. By failing to notify Collins, Little and Holmes that he had obtained the signed dismissal forms and by retaining the signed dismissal forms until Collins, Little and Holmes paid his legal fees, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Rules of Professional Conduct.

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

The 3 day of November 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee



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